

OPEN MEETING ITEM

6/11/09



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COMMISSIONERS
KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

MICHAEL P. KEARNS
INTERIM EXECUTIVE DIRECTOR



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ARIZONA CORPORATION COMMISSION

ORIGINAL

MEMORANDUM

TO: Kristin K. Mayes, Chairman
Gary Pierce
Paul Newman
Sandra D. Kennedy
Bob Stump

Arizona Corporation Commission

DOCKETED

JUN 2 2009

FROM: Mark Dinell *MD*
Assistant Director of Securities

DOCKETED BY *MD*

DATE: May 22, 2009

RE: Proposed Order of Dismissal without Prejudice re: Owen A. Vilan and Lucina Vilan (a/k/a Lucy Vilan), husband and wife, and Saguaro Investments, Inc., f/k/a Vilan Enterprises, Inc., a Nevada corporation
Docket No. S-20519A-07-0154

CC: Michael P. Kearns, Interim Executive Director

Attached is a proposed Order of Dismissal without Prejudice regarding Respondents Owen A. Vilan ("Vilan") and Lucina Vilan (a/k/a Lucy Vilan) ("Lucy Vilan"), husband and wife, and Saguaro Investments, Inc., f/k/a Vilan Enterprises, Inc., a Nevada corporation ("Saguaro Investments").

Between August 2004 and March 2007, Vilan, through Saguaro Investments, raised over \$25 million from approximately 300 investors from the sale of investment contracts on the false promise that he would use those funds to successfully buy and sell other securities. Vilan represented to investors that they would receive annual returns of between thirty-six and forty-eight percent. However, Respondents diverted most of the funds for personal use, to pay returns to other investors, and to pay commissions to other salesmen.

On March 7, 2007, the Division filed a Temporary Cease and Desist Order (TC&D) and Notice of Opportunity ("Notice") against Vilan, Lucy Vilan, and Saguaro Investments ("Respondents") alleging violations of the registration and anti-fraud provisions of the Arizona Securities Act. Respondents filed a request for hearing on April 9, 2007, and an answer on April 20, 2007.

This matter was referred to the Office of the Attorney General when the Division learned that Respondents continued to raise funds from investors in violation of the TC&D. On October 16, 2007, search warrants were executed on the office of Saguaro Investments and the Vilans' residence.

On October 22, 2007, Vilan was indicted by a state grand jury on ten felony counts of fraud schemes, theft, securities fraud, sale of unregistered securities, transactions by unregistered securities dealers or salesmen. Following the indictment, a criminal receiver, Larry Warfield, was appointed to marshal Vilan's assets ("Receiver").

On December 14, 2007, a procedural order was issued granting the Respondents' Motion to Stay the administrative proceeding due to the pending parallel criminal proceeding against Vilan.

On August 14, 2008, the state grand jury issued a superseding indictment against Vilan which included the original ten felony charges from the October 22, 2007 indictment along with an additional five felony counts. Similar charges were also made against Vilan, Lucy Vilan, and five others regarding an additional \$5 million dollars which was raised from investors in 2007 through Desert Group Investments, LLC.

On March 25, 2009, Lucy Vilan pled no contest to one count of securities fraud, a class 4 felony. On May 6, 2009, Lucy Vilan was sentenced to four years of supervised probation, and ordered to pay criminal restitution to investors in the amount of \$209,951.00.

On March 30, 2009, Vilan pled guilty to two counts of fraud schemes and one count of money laundering – first degree, all class 2 felonies. On May 12, 2009, Vilan was sentenced to serve twenty-one years in prison to be followed by seven years of supervised probation, and ordered to pay criminal restitution to investors. Restitution shall be determined by the Receiver, and is estimated to be approximately \$22 million.

Division staff special investigators participated in the execution of the search warrants, testified before both grand juries, and assisted the Office of the Attorney General in the prosecution of the criminal matter.

Based on the foregoing, the Division recommends that the administrative proceeding be dismissed without prejudice, with all parties paying their respective attorneys' fees and costs.

Originator: Julie Coleman

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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3 COMMISSIONERS

4 KRISTIN K. MAYES, Chairman
5 GARY PIERCE
6 PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

7 In the matter of:

8 Owen A. Vilan and Lucina Vilan (aka Lucy Vilan),
9 husband and wife,
7523 E. Kael Circle
10 Mesa, AZ 85207

11 Saguaro Investments, Inc., fka Vilan Enterprises,
12 Inc., a Nevada Corporation,
7440 E. Main Street, Suite 2-B
13 Mesa, AZ 85207

14 Respondents.
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DOCKET NO. S-20519A-07-0154

DECISION NO. _____

**ORDER OF DISMISSAL OF
RESPONDENTS WITHOUT
PREJUDICE**

16 On March 7, 2007, the Securities Division of the Arizona Corporation Commission filed a
17 Temporary Order to Cease and Desist and Notice of Opportunity for Hearing against Owen A.
18 Vilan and Lucina Vilan, husband and wife, and Saguaro Investments, Inc. f/k/a Vilan Enterprises,
19 Inc. ("Respondents").

20 Respondents filed a request for hearing on April 9, 2007, and an answer on April 20, 2007.

21 The Arizona Corporation Commission having reviewed this matter and being advised in
22 the premises,

23 IT IS HEREBY ORDERED that these proceedings are hereby dismissed without prejudice
24 and that each party shall be responsible for their respective costs and attorney's fees.

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1 IT IS FURTHER ORDERED that this Order shall become effective immediately.

2 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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5 CHAIRMAN

COMMISSIONER

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8 COMMISSIONER

COMMISSIONER

COMMISSIONER

9 IN WITNESS WHEREOF, I, MICHAEL P. KEARNS,
10 Interim Executive Director of the Arizona Corporation
11 Commission, have hereunto set my hand and caused the
12 official seal of the Commission to be affixed at the
13 Capitol, in the City of Phoenix, this _____ day of
14 _____, 2009.

15 _____
16 MICHAEL P. KEARNS
17 INTERIM EXECUTIVE DIRECTOR

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DISSENT

DISSENT

This document is available in alternative formats by contacting Shaylin A. Bernal, ADA
Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

(JC)